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ABSTRACT

This document presents guidelines for Maine special education complaint investigation procedures. The introduction stresses the requirement that complaints must be in writing and must state that an educational agency or service provider has violated a requirement of the 1997 Individuals with Disabilities Education Act or Maine special education law and regulations. The guidelines then go on to summarize requirements concerning: receipt of complaint and review, notification, dismissal of a complaint, the complaint investigation process, the complaint investigation report and Commissioner's order, and enforcement. A dispute resolution request form is attached. (DB)

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Maine Department of Education

Special Education Complaint Investigation Procedures

September 2, 1999

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MAINE DEPARTMENT OF EDUCATION
COMPLAINT INVESTIGATION PROCEDURES

INTRODUCTION

An organization or individual may file a written complaint with the Commissioner of the Maine Department of Education, alleging that an educational agency or service provider (school administrative unit, child development services site, other responsible public agency, early intervention service provider, contracted service provider, private school or the Maine Department of Education) has failed to comply with Maine Special Education Laws and Regulations or the Federal Individuals with Disabilities Education Act (IDEA).

A complaint must include a statement that an educational agency or service provider has violated any requirement of the IDEA or Maine special education law and regulations, including but not limited to identification, evaluation, placement, or the provision of a free appropriate public education to a student. The complaint shall include the facts on which the complaint is based.

Complaints must be in writing and signed by the individual requesting the complaint investigation or an individual with authority to sign on behalf of an organization.

A dispute resolution request form is attached to this document. Individuals filing complaints are encouraged to use the dispute resolution request form to ensure that necessary information for processing a complaint is submitted. In addition to the complaint process, individuals may wish to request mediation as an additional option available for the resolution of disputes.

Complaints may be submitted to:

Due Process Coordinator
Maine Department of Education
Division of Special Services
23 State House Station
Augusta, Maine 04333-0023
Fax: 287-2326

Questions regarding complaint, mediation, hearing and other dispute resolution procedures; requirements for providing special education services to children with disabilities; or requests for copies of the Maine Special Education Regulations should be directed to the Maine Department of Education, Special Services Team (207) 287-5950 or the address listed above.

RECEIPT OF COMPLAINT AND REVIEW

The Department will investigate and resolve all complaints within 60 calendar days of the receipt of a complaint. The timelines specified in these procedures will commence on the date upon which the Department receives a signed, written complaint.

Within 10 business days of receipt of the complaint, the Due Process Coordinator will contact the complainant, as necessary, to clarify issues or complete any of the following information:

- the name, date of birth, and disability of the student(s) who is/are the subject of the complaint;
- the complainant's name, address, and phone number;
- the responsible educational agency or service provider;
- the alleged violations;
- when the violations occurred; and
- whether there has been a previous complaint investigation or hearing, and the disposition of that request.

NOTIFICATION

Within 10 business days of the receipt of a complaint the Commissioner will:

- Appoint a complaint investigator to conduct the complaint investigation.
- Notify the educational agency or service provider (the respondent), of the complaint and all information about the complaint that is available to the Due Process Coordinator, including a copy of the original complaint; and
- Notify the party who submitted the complaint (the complainant) of the Department's receipt of the complaint, the Department's complaint investigation process, the subject of the complaint, and the complainant's right to submit additional information orally or in writing to the complaint investigator.

DISMISSAL OF A COMPLAINT

The Due Process Coordinator may recommend that the Commissioner dismiss a complaint if the allegations:

- are not a violation of Maine or federal law or regulations concerning the education of students with disabilities;
- have been previously resolved within a complaint or hearing and when no continuing violation is identified;
- occurred in excess of one year prior to the date that the complaint is received unless a longer period is reasonable because a violation is continuing; or
- occurred in excess of three years prior to the date the complaint is received and the complainant is requesting compensatory services.

COMPLAINT INVESTIGATION PROCESS

Within **60** calendar days of receipt of a complaint, the complaint investigator shall complete an independent investigation of the allegations and the Commissioner shall mail a written report to both parties to the complaint. A reasonable extension of the time frames may be granted only if exceptional circumstances exist with respect to a specific complaint.

A. Data Collection

The complaint investigator will carry out an independent investigation and review all relevant information concerning the alleged violation(s). The complaint investigator, as an agent of the Commissioner, is authorized to review all relevant educational records while conducting a complaint investigation (34 CFR Section 99.35(a) of the implementing regulations for the Family Educational Rights and Privacy Act). The respondent shall comply with any reasonable request for copies of records within 5 calendar days of the receipt of the request.

The complaint investigator will contact the complainant to ensure that the complainant has an opportunity to present additional information to the investigator either orally or in writing.

B. On - site Visit

The complaint investigator may determine that an on-site visit is necessary in order to complete a complaint investigation. Any on-site visit will be coordinated with the respondent and will be scheduled at a mutually convenient time and place.

The complaint investigator may, in lieu of an on-site investigation, conduct telephone interviews of the respondent, the complainant, the student, and others with a direct knowledge of the student and/or the allegations.

C. Complaint Review Meeting

The complaint investigator may elect to convene a complaint review meeting to review the preliminary findings of the investigation, to resolve any inconsistencies within the documentation, or to negotiate a corrective action plan to resolve the dispute. Any complaint review meeting will be coordinated with the respondent and the complainant and will be scheduled at a time and place reasonably convenient to all parties and consistent with the 60 calendar day time limit for complaint investigations.

COMPLAINT INVESTIGATION REPORT AND COMMISSIONER'S ORDER

The complaint investigation report and Commissioner's order will be issued to the complainant and the respondent within 60 calendar days of the Department's receipt of the complaint.

The complaint investigation report will summarize the complaint investigation activities, including:

- the date the complaint was received;
- the date the complainant and respondent were notified;
- the date the complaint investigator was appointed;
- the date the respondent's response to the complaint was received;
- if applicable, the reason any extension of time frames beyond 60 days was granted;
- each allegation made by the complainant, or identified by the complaint investigator during the complaint investigation, and the applicable regulation or statute;
- all findings of fact and conclusions of law relating to each allegation;
- the reasons for the final decision regarding each allegation; and
- a corrective action plan (CAP), if appropriate, which the unit shall implement within a specified time period in order to correct any violations that are found.

If the Department finds that a specific allegation of a violation was not a violation of law or regulation but a continuing disagreement between the parties, the Department may take steps to informally resolve the continuing dispute, including but not limited to, advising the parties of what the Department believes to be a fair settlement of the dispute.

The Commissioner shall review each complaint investigation report and shall, as necessary, issue an order directing the educational agency or service provider to take appropriate corrective action.

ENFORCEMENT

Compliance with the corrective action plan must be completed within 30 days of the date of the receipt of the Commissioner's order or the timeframes specified within the corrective action plan. If compliance with the corrective action plan is not achieved within 45 days (or other specified timeframe) of the receipt of the Complaint Investigation Report, the Commissioner:

- May withhold financial aid from the educational agency or service provider until it complies with the Commissioner's Order; and/or
- Shall refer the matter to the Attorney General, who shall take appropriate action to bring the educational agency or service provider into compliance.

Dispute Resolution Request Form

To: Due Process Coordinator,
Special Services Team, Maine Department of Education,
Station #23,
Augusta, ME 04333 – 0023 **Date of Receipt by DoE:**

Type of dispute resolution requested (select one):

___Mediation ___ Complaint ___ Hearing ___Expedited Hearing

If requesting a complaint or hearing are you willing to participate in mediation? __ Yes __ No
(A mediation will not interfere with the timelines for a complaint or a hearing.)

Parent's name: _____

Address: _____

_____

Telephone: Home:_____ - _____ **Work:**_____ - _____ **Fax:**_____ - _____

Student's name: _____

Date of Birth: ____/____/____ **Disability:** _____

Student's Residence (if different from parent): _____

School district the student attends: _____

School: _____ **Grade:** _____

Attorney / advocate: _____

Address: _____

_____

Telephone: (_____)_____ - _____ **Fax:** (_____)_____ - _____

Describe the nature of the problem and any facts relating to the problem. (Attach additional pages if necessary.):

_____
_____
_____
_____
_____
_____
_____
_____
_____

Please complete page 2 of this request form

How could this problem be resolved? (Attach additional pages if necessary.):

_____

_____

_____

_____

_____

_____

_____

_____

What actions has the school taken to address the problem?:

_____

_____

_____

_____

_____

_____

_____

_____

Did you notify the school of this problem? ____ Yes ____No

Person notified: _____ **Date notified:** ___/___/___

How you notified the school: _____

_____

Signature of individual submitting request:

_____ **Date:** ___/___/___

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For additional information or assistance you may wish to contact:

- The superintendent or special education director of the school district
- The Maine Dept of Education, Due Process Office – Tel: 287-5974, fax: 287-2326, email: michael.opuda@state.me.us
- The Special Needs Parent Information Network (SPIN) – 1-800-870-7746

Note to parents requesting a due process hearing: Recent amendments to state and federal laws concerning special education services for students with disabilities require parents or their attorneys to provide the information contained within this form to the State Department of Education and the local school district. Failure to provide this information may result in a reduction in the award of any attorney fees. (20 U.S.C. §1415 (b)(7), (i)(3)(F)) and Title 20-A MRSA § 7207-B, §§3-A.